

**PROGRAMMATIC AGREEMENT
AMONG
THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
THE NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS,
AND SPECIFIC STATE HISTORIC PRESERVATION OFFICERS,
REGARDING IMPLEMENTATION OF NEIGHBORHOOD STABILIZATION PROGRAM/ROUND 2
UNDERTAKINGS CARRIED OUT BY NON-PROFIT GRANTEEES AND SUBJECT TO
HUD'S ENVIRONMENTAL RULE, 24 CFR PART 50**

WHEREAS, the American Recovery and Reinvestment Act of 2009 (P.L. 111-005) (Recovery Act), appropriated funds for a second round of the Neighborhood Stabilization Program (NSP2), a HUD-administered program originally established under the Housing and Economic Recovery Act of 2008 (P.L. 110-289)(HERA); and

WHEREAS, the purpose of NSP2 is to stabilize communities hardest hit by the housing foreclosure crisis through the purchase and redevelopment of foreclosed and abandoned homes and residential properties; and

WHEREAS, HUD, through a Notice of Funding Availability (NOFA) posted in May 2009, announced that NSP2 funds would be awarded competitively to State, tribal, and local governments, as well as to public-private consortia and non-profit applicants; and

WHEREAS, the Secretary of HUD, in January 2010, announced the NSP2 awards, identifying the specific non-profit grantees (see Appendix 1); and

WHEREAS, in accordance with the Recovery Act statute and HUD regulations, NSP2 activities carried out by private non-profit grantees are subject to environmental reviews based on 24 CFR Part 50, "Protection and Enhancement of Environmental Quality," establishing HUD as the "agency official" for the purposes of compliance with Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

WHEREAS, if funds from a NSP2 non-profit grantee will be used in conjunction with other HUD funds that are subject to environmental/Section 106 review per 24 CFR Part 58 (e.g., Community Development Block Grant, HOME Investment Partnerships Program), HUD will request the Responsible Entity (State, Tribal, or local government) to be the Section 106 "agency official" for the project; and

WHEREAS, in March 2010, HUD issued a memorandum to the Advisory Council on Historic Preservation (ACHP) and State/Tribal Historic Preservation Officers (SHPO/THPO), notifying them that NSP2 non-profit grantees were authorized by HUD to initiate Section 106 consultation under specific conditions (see Appendix 2); and

WHEREAS, HUD recognizes that federally recognized Indian tribes have special expertise in the identification and evaluation of historic properties of religious or cultural significance to them; and

WHEREAS, HUD remains legally responsible for compliance with Section 106 for the NSP2 activities carried out by non-profit grantees and has administrative oversight of the overall NSP2 program; and

WHEREAS, the NSP2 non-profit grantees will receive environmental and historic preservation technical assistance from HUD environmental staff as well as from HUD-trained technical assistance providers under contract to HUD;

WHEREAS, HUD has consulted with ACHP and the National Conference of State Historic Preservation Officers (NCSHPO) and determined that some NSP2 eligible activities may cause adverse effects to "historic properties" (i.e., those listed on or eligible for the National Register of Historic Places, as defined at 36 CFR § 800.16(l));

WHEREAS, HUD, the ACHP, and NCSHPO have agreed that the requirements of Section 106 can be more effectively and efficiently fulfilled if applicable states enter into a Programmatic Agreement (PA) that stipulates roles and responsibilities, exempts undertakings from Section 106 review, establishes tribal protocols, facilitates identification and evaluation of historic properties, establishes treatment and mitigation measures, and streamlines the resolution of adverse effects;

WHEREAS, HUD, in consultation with ACHP and NCSHPO, has determined that a PA among the 25 states and District of Columbia is an acceptable approach for HUD to manage its Section 106 compliance responsibilities for its NSP2 non-profit grantees, therefore, this PA will apply only to those States and the District where the SHPO executes an addendum to this PA and forwards it to HUD and the ACHP;

NOW THEREFORE, HUD, ACHP, and NCSHPO agree that the NSP2 program for non-profit grantees shall be implemented in accordance with the following stipulations to take into account the effects of the undertakings on historic properties.

STIPULATIONS

HUD, in coordination with the NSP2 private non-profit grantees, will ensure that the following stipulations are carried out:

I. Applicability

A. This PA applies only to undertakings that are subject to HUD's environmental regulation, 24 CFR Part 50, and are carried out by non-profit grantees in specific states (see Appendix 1) using NSP2 funds provided by HUD in accordance with the Recovery Act. If funds from a NSP2 non-profit grantee will be used in conjunction with other HUD funds that are subject to 24 CFR Part 58 (e.g., CDBG or HOME), HUD will request the Responsible Entity (State, Tribal, or local government) to be the "agency official" for Section 106 reviews for the jointly-funded project.

B. Some SHPOs may have already developed alternative procedures, protocols, or templates appropriate for use by HUD and its NSP2 grantees to meet Section 106 requirements. In those cases, HUD and the SHPO may agree to use those existing alternatives rather than the process in this PA. However, HUD must maintain evidence of the specific, agreed upon alternative in the environmental review record (e.g., letter from SHPO, executed alternative agreement) and notify the ACHP (along with a copy of the document) in writing of such before using them.

C. If for some reason HUD determines that certain NSP2 activities do not or cannot fall under the provisions of this PA, HUD must complete Section 106 reviews for those NSP2 projects on a case by case basis, pursuant to 36 CFR §§ 800.3-800.7.

D. HUD has determined that undertakings falling under the following NSP2 eligible activity category *will not be subject to this PA*, and instead will be reviewed and processed on a case by case basis per 36 CFR §§ 800.3-800.7:

"Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-seconds, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers" (HERA, Pub. L. 110-289, § 2301(c)(4)(A), (codified at 42 U.S.C. 5301 note)

II. Responsibilities

A. The Section 106 review process to be followed under this PA will be the one set forth in 36 CFR §§ 800.3-800.7, but with the modifications included in this PA (e.g., exemptions, Neighborhood Target Review, certified review, standard mitigation) or the alternate process per Stipulation I.B. of this PA.

B. NSP2 non-profit grantees are authorized by HUD to initiate Section 106 consultation, in accordance with 36 CFR § 800.2(c)(4) and HUD's notification memorandum, dated March 26, 2010 (see Appendix 2).

C. To expedite this review process, HUD will require NSP2 non-profit grantees to contract or employ a person or entity meeting the *Secretary of the Interior's Professional Qualifications Standards* (48 FR 44738, September 29, 1983) in the appropriate field(s). Per the NSP2 NOFA, the expenditure of funds for this purpose is an allowable administrative expense.

D. HUD expects NSP2 non-profit grantees and/or their consultants to conduct searches for determinations of National Register eligibility on their own, with limited assistance from the SHPO. SHPOs will not assume responsibility for identification and evaluation of historic properties on behalf of non-profit grantees and/or their consultants, including conducting basic archival research.

E. In consultation with SHPO, NSP2 non-profit grantees will identify other consulting parties and invite them to participate in the identification and evaluation of historic properties, assessment of effects, and in the review of projects under the terms of this PA. Additionally, in consultation with the SHPO and other consulting parties (including tribes), the non-profit grantees will create project schedules and milestones to help guide the coordination of Section 106 reviews.

F. Regarding tribal consultation, HUD environmental staff will:

1. Make a reasonable and good faith effort to identify federally recognized Indian tribes that may attach religious and cultural significance to properties potentially affected by an NSP2-funded undertaking and invite them to participate in the identification and evaluation of historic properties, assessment of effects, and in the review of undertakings under the terms of this PA;
2. Refer to one or more of the following: HUD's Tribal Directory Assessment Tool (<http://www.hud.gov/offices/cpd/environment/tribal/>), ACHP's *Consultation with Indian Tribes in the Section 106 Review Process: A Handbook* (November 2008), and the U.S. Army Corps of Engineers St. Louis District Native American Tribal PoC Database (<http://www.mvs.usace.army.mil/engr/curation/CMAC%20TrblDb.html>)
3. Contact federally recognized Indian tribes to determine how and when to seek tribal input on project activities carried out by NSP2 non-profit grantees when a NSP2 undertaking does not meet the criteria set forth in Stipulation IV below; agreed upon protocols will be documented for the benefit of NSP2 non-profit grantees; and
4. Serve as the HUD point of contact for NSP2 projects and provide their contact information to the ACHP, SHPO, and tribes, as appropriate.

G. The ACHP will be available to address policy and program issues that evolve during the administration of this PA.

H. This PA will apply within a State after the relevant SHPO signs a copy of the addendum and provides copies to HUD and ACHP, the latter of which will accept it as filed per 36 CFR § 800.6(b)(1)(iv).

III. Eligible Activities Allowable Under the NSP2 Program That Are Subject to this Programmatic Agreement

The language appearing in quotations below, describing NSP2 eligible activities, comes directly from HERA, Pub. L. 110-289, § 2301(c)(4), (codified at 42 U.S.C. 5301 note) (as amended by the Recovery Act, Pub. L. 111-5, 123 Stat. 218). The terms appearing in parentheses and italics are HUD's general interpretation of the categories of undertakings that could result from these statutorily allowable activities:

A. "Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties" (*acquisition, rehabilitation, demolition, disposition*).

B. "Establish and operate land banks for homes and residential properties that have been foreclosed upon" (*land banking*).

C. "Demolish blighted structures" (*demolition*).

D. "Redevelop demolished or vacant properties as housing" (*acquisition, disposition, demolition, new construction, rehabilitation*).

E. A combination of activities described in III.A.-D. above.

IV. NSP2 Undertakings Exempt from Section 106 Review

The following NSP2 undertakings will be exempt from Section 106 review:

A. Activities that HUD determines are covered by 24 CFR § 50.19(b) (see Appendix 3).

B. Work that HUD determines meets the definition of "maintenance," per HUD's policy memorandum dated March 28, 2006 (see Appendix 4).

C. Work (including demolition and rehabilitation) on properties that are less than 50 years old ***unless***

1. They are located within a National Register -eligible or -listed historic district, ***or***
2. They have been determined eligible under National Register Criterion Consideration G for "exceptional significance" by
 - a. the Keeper of the National Register,
 - b. the SHPO, or
 - c. through a consensus determination made pursuant to 36 CFR § 800.4(c).
3. While 50 years is the general bench mark for National Register eligibility, age of property may be adjusted to 45 years based on individual SHPO preference/practice, after HUD and the SHPO consult on the matter. If agreed, HUD will note the age change in IV.C. Also, HUD will make a reference to the age change on the SHPO addendum. Both parties should initial the changes.

D. Demolition of individual properties that have been determined not eligible for the National Register within the last five years by

1. the Keeper of the National Register,
2. the SHPO, or
3. through a consensus determination made pursuant to 36 CFR § 800.4(c).

E. Repair and/or Rehabilitation

1. on properties that have been determined not individually eligible for the National Register within the last five years by
 - a. the Keeper of the National Register,
 - b. the SHPO, or
 - c. through a consensus determination made pursuant to 36 CFR § 800.4(c)
2. of interior spaces *unless* the property has been determined individually eligible for or listed on the National Register (in which case there may be documented, significant character-defining features) by
 - a. the Keeper of the National Register,
 - b. the SHPO, or
 - c. through a consensus determination made pursuant to 36 CFR § 800.4(c)

F. New construction (attached, detached, infill, etc.) on or within properties determined not eligible for the National Register within the last five years by

1. the Keeper of the National Register,
2. the SHPO, or
3. through a consensus determination made pursuant to 36 CFR § 800.4(c).

G. Land banking activities (i.e., acquisition and holding of property *with no known reuse*) for the purpose of assembling parcels of land for future reuse within 10 years, per HUD's existing guidance, "Section 106 Guidance for NSP Land Banking," dated January 2010 (see Appendix 5). In other words, acquisition without the intent to demolish is exempt from Section 106 review, but future activities and reuse plans (mothballing, demolition, rehabilitation, etc.) will require a subsequent Section 106 review.

H. Acquisition and disposition of residential property that comply with HUD's policy memorandum, dated June 30, 2010, entitled "Acquisition/Resale Activities Determined to have 'No Potential to Cause Effects' to Historic Properties" (see Appendix 6).

I. Disposal of residential historic properties that are acquired with NSP2 funds without adequate preservation protections (e.g., deed restrictions) since:

1. NSP2 is a temporary program, established by the Recovery Act, to assist with the Nation's housing and financial recovery;
2. NSP2 will acquire and dispose of a very large number of residential properties, anticipated to be in the hundreds of thousands; and
3. The signatories want to avoid encumbering such a large number of residential

properties with preservation deed restrictions as a result of this temporary federal recovery program.

4. HUD will consider exceptions to this stipulation only when SHPO provides a timely written request, a preservation-based justification explaining the need for adequate preservation protections, and other pertinent details (e.g., restrictive language, identification of easement holder).

J. Ground disturbance

1. that HUD determines, in consultation with SHPO and other consulting parties (including tribes), is *minimal*; and/or
2. of documented, previously disturbed soil, as determined by HUD, in consultation with SHPO and other consulting parties (including tribes).
3. Consultation on these issues will be guided by the ACHP's Archaeology Guidance (see Appendix 7, esp. Question #30, pp. 20-22) and the ACHP's 2007 *Policy Statement on Affordable Housing and Historic Preservation* (Implementing Principle VIII) (72 FR 7387, February 15, 2007).

K. A combination of activities described in IV.A.-J. above

V. Neighborhood Target Reviews

A. To expedite Section 106 reviews and streamline workload for both HUD and SHPOs, NSP2 non-profit grantees may develop and follow a Neighborhood Target Review process to allow acquisition of single family homes in lieu of a property by property Section 106 review under specific limitations described below and in HUD guidance issued on July 26, 2010 (see Appendix 8). Neighborhood Target Review is only permitted for specific activities described in Stipulation V. B. below in a limited geographic area that has few environmental complications. The intent of HUD's Neighborhood Target Review is to enable NSP2 grantees to expeditiously acquire single family homes in neighborhoods that have few, if any, environmental complications and where property specific mitigation will not be required. For instance, HUD envisions this strategy to be employed in newly developed neighborhoods located outside of the 100 year Floodplain with no known impact from toxics and hazards.

B. Neighborhood Target Reviews are limited to the acquisition, disposition, and/or minor rehabilitation of single family homes. Minor rehabilitation is where rehabilitation costs are less than 50% of market value of structure, or if the structure has been damaged and is being restored, 50% of the value before the damage occurred. Minor rehabilitation includes ground disturbance.

C. If the Neighborhood Target Review project meets the criteria described in Stipulation IV above, then HUD will consider it as exempt from review.

D. If the Neighborhood Target Review project does not meet the criteria described in Stipulation IV above, then non-profit grantees will provide the SHPO and other consulting parties (including tribes) with the Neighborhood Target Review geographic boundary information and survey findings to inform any additional consultation that may be required per this PA.

E. Should there be any disputes with SHPO or consulting parties (including tribes) regarding Neighborhood Target Reviews, HUD will seek resolution with the ACHP via Stipulation XI.F., Dispute Resolution.

VI. NSP2 Undertakings Needing a “Certified” Review

The following undertakings do not require Section 106 review when certified by a qualified preservation entity, as determined by HUD, in consultation with SHPO, and such certification is provided to the SHPO:

A. Repair and Rehabilitation work on historic properties (including work on contributing and non-contributing resources in historic districts) that is deemed to meet the *Secretary of the Interior’s Standards for Rehabilitation*, as certified by

1. a person or entity meeting the *Secretary of the Interior’s Professional Qualifications Standards* (48 FR 44738, September 29, 1983) in the appropriate field(s);
2. a Certified Local Government (CLG) or local historic preservation commission; or
3. the Federal/State Historic Rehabilitation tax credit review process.

B. New construction on historic properties (including work on contributing and non-contributing resources in historic districts) that is deemed to meet the *Secretary of the Interior’s Standards for Rehabilitation*, as certified by

1. a person or entity meeting the *Secretary of the Interior’s Professional Qualifications Standards* (48 FR 44738, September 29, 1983) in the appropriate field(s); or
2. a CLG or local historic preservation commission.

C. If a SHPO objects to the idea of certified reviews done by a professionally qualified preservation consultant, as noted above, then the SHPO will participate in reviews as described in VI.A.1 and VI.B.1. The SHPO will disclose this in writing to the ACHP, HUD, and other consulting parties.

VII. Archaeological Surveys

A. When HUD determines, in consultation with SHPO and other consulting parties (including tribes) that a project will exceed *minimal ground disturbance* and/or will impact undisturbed soil, or if there is disagreement from one or more of the consulting parties (including tribes) about the level of effort needed to identify/evaluate archaeological resources, then:

1. HUD will refer to *HP Factsheet #6* as the primary guidance for deciding when to do Phase I/II archaeology surveys (see Appendix 9).

2. HUD will also refer to ACHP's Archaeology Guidance and the ACHP's *Policy Statement on Affordable Housing and Historic Preservation*, as cited in Stipulation IV.J.3.

B. Should there be any disputes with SHPO or consulting parties (including tribes) regarding archaeological issues, HUD will seek resolution with the ACHP via Stipulation XI.F., Dispute Resolution.

VIII. Consultation to Avoid, Minimize or Mitigate Adverse Effects

Should HUD and a non-profit grantee fail to reach agreement within 60 days of initiating consultation with the SHPO and/or other consulting parties (including tribes) on how to avoid, minimize, or mitigate adverse effects to historic properties, HUD will notify the ACHP and invite it to participate in concluding the review.

IX. Standard Mitigation Measures

In cases of adverse effects, HUD may use the following standard mitigation measures (when relevant) in lieu of negotiating a Memorandum of Agreement (MOA):

- A. Design Review for Repair, Rehabilitation, and/or New Construction
 1. Non-profit grantees will develop and implement designs that follow the *Secretary of the Interior's Standards for Rehabilitation*, to the extent feasible.
 2. Non-profit grantees must confirm with SHPO at what stages of development plans and specifications should be submitted to SHPO for 30-day review and comment periods and then adhere to that schedule (e.g., 35% 65% 95% is typical).
 3. HUD will require non-profit grantees to document how they have taken SHPO comments into account.
 4. When adherence to the *Secretary of the Interior's Standards for Rehabilitation* is not feasible, HUD will require non-profit grantees to document why the *Standards* cannot work and provide options that are sympathetic to the historic property. Within 21 days of receipt of the grantee's options, the SHPO and ACHP will provide comments before providing them to HUD and the non-profit grantee. HUD will then consider the comments and document its decision before approving the project.
- B. Demolitions
 1. Per the Recovery Act, "a [non-profit] grantee may not use more than 10 percent of its grant under this heading for demolition activities under section 2301(c)(3)(C) and (D) [of HERA, i.e., "land banking" and "demolish blighted structures"] unless the Secretary determines that such use represents an appropriate response to local market conditions" (Recovery Act, Pub. L. 111-5, 123 Stat. 218, (codified at 42 U.S.C. 5301 note)).

2. In cases where non-profit grantees seek to demolish a historic property, HUD will require non-profit grantees to
 - a. prepare a written justification for proposed demolitions of historic properties, summarizing alternatives that were considered and specific reasons why demolition is needed;
 - b. submit demolition requests to SHPO/THPO;
 - c. afford SHPO/THPO 30 days to review and comment on proposed demolitions; and
 - d. record the property (using SHPO standards or Historic American Building Survey, depending on the circumstances) or perform other feasible mitigation (e.g., interpretive exhibits, plaques, walking tours), as recommended by SHPO/THPO.

C. Archaeology

If archaeology work beyond a Phase II survey is needed (based on Stipulations IV.J. and VII. above), HUD and the non-profit grantee will consult with SHPO/THPO and other consulting parties (including tribes), as needed, to develop and implement a research design and data recovery plan.

D. Should there be any disputes with SHPO/THPO or consulting parties (including tribes) regarding the use of these standard mitigation measures, HUD will notify the ACHP and invite it to participate in negotiating an MOA.

X. Memoranda of Agreement

A. If HUD determines, in consultation with SHPO/THPO and other consulting parties (including tribes) that one or more of the standard mitigation measures noted in Stipulation IX is not appropriate for or commensurate with the adverse effects posed by a NSP2 non-profit grantee's undertaking, then HUD and the non-profit grantee will consult with SHPO and the other consulting parties (including tribes) in accordance with 36 CFR §§ 800.5-800.6 to develop and execute a MOA.

B. The signatories recognize that these executed NSP2 MOAs may facilitate future NSP2 reviews and, as such, may agree to adopt certain MOA mitigation measures as standard mitigation measures (as described in Stipulation IX above) for the purposes of this PA. New standard mitigation measures may be added to Stipulation IX by amending the PA per Stipulation XI.G., Amendments and Termination.

C. Should HUD and a non-profit grantee fail to negotiate an MOA within 60 days of initiating consultation, HUD will notify the ACHP and invite it to participate in concluding the Section 106 review.

XI. Administrative Stipulations

A. Public/Citizen Participation and Input

1. HUD and its non-profit grantees will comply with NSP2 program requirements related to public/citizen participation as noted in the Notice of Funding Availability (May 4, 2009) and the public participation requirements as noted in 24 CFR § 50.23.
2. Accordingly, and in reference to Stipulation II.D., the non-profit grantee will seek public input and develop a creative strategy for public participation to respond to the nature of the undertakings and the level of public interest.
3. For the purposes of this PA, the signatories agree that compliance with Stipulations XI.A.1 and XI.A.2. above meets the intent of the public participation provisions in 36 CFR Part 800.

B. Emergency Situations

1. In responding to an emergency declared by the President, Governor, or tribal government, HUD and its NSP2 non-profit grantees will comply with 36 CFR § 800.12(b)(2)
2. In responding to an emergency declared by the local government's chief elected official or legislative body, HUD and the non-profit grantee will comply with 36 CFR § 800.12(c)
3. Such undertakings must take place within 30 days of the declared emergency

C. Unanticipated Discoveries

1. If, during project implementation, a non-profit grantee or any of its contractors discovers or identifies potential historic properties within a project site that may be adversely affected, or should there be any unanticipated adverse effects to historic properties on a project site or immediately adjacent to a project site, the non-profit grantee shall, within 48 hours, promptly notify HUD and the SHPO and shall, in consultation with them, develop a treatment or mitigation plan for such property or adverse effect condition and submit it to ACHP, SHPO, and consulting parties for comment within 15 days. The failure of the ACHP and others to comment within that time period shall constitute concurrence with the proposed plan. HUD and the non-profit shall consider comments before finalizing their treatment or mitigation plans and will ensure their implementation. Under emergency conditions, the 15 day period may be shortened, with the ACHP's concurrence.
2. The non-profit grantee may proceed with all project activities while the treatment or mitigation plan is being developed and reviewed, but shall not take or permit actions that would adversely affect such property during such period.

D. Reporting and Monitoring

1. NSP2 non-profit grantees will be required by HUD to report regularly on the status of their projects. Electronic reporting systems, such as HUD's Recovery Act

Management Performance System and FederalReporting.gov, may provide some useful data for ACHP, SHPO, and others. HUD will share this data upon request, as appropriate.

2. HUD will also maintain Section 106-related compliance information (including lists of projects determined exempt from review) in the environmental review record and will respond to inquiries from SHPO, ACHP, and/or consulting parties (including tribes) upon request.
3. Upon request, HUD will coordinate monitoring visits for SHPO and/or ACHP.

E. Technical Assistance and Training

1. As noted in the preamble, NSP2 non-profit grantees will receive technical assistance from HUD-assigned "technical assistance providers," who received HUD-sponsored environmental training in the Spring/Summer of 2010 and will refer to the *NSP2 Environmental Review Guide* (see http://hudnsphelp.info/media/resources/ERGuide_NS2Nonprofits.pdf) when dispensing technical assistance.
2. ACHP agrees to provide training to HUD environmental staff and SHPO staff that are charged with carrying out the provisions of this PA. The training may be a question and answer session via webinar or teleconference call which HUD and ACHP will schedule within 90 days of implementation of this PA.

F. Dispute Resolution

1. Should the SHPO or consulting parties (including tribes) object within 30 days to any plans for action proposed pursuant to this PA, HUD will consult with the objecting party to resolve the dispute. If HUD determines that the objection cannot be resolved, HUD shall forward all documentation relevant to the dispute to the ACHP. Within 30 days following receipt of adequate documentation, the ACHP will either:
 - a. provide HUD with recommendations, which HUD will take into account in reaching a final decision regarding the dispute; or
 - b. notify HUD that it will comment pursuant to 36 CFR § 800.7(c), and proceed to comment. Any ACHP comment provided in response to such a request will be taken into account by HUD in accordance with 36 CFR § 800.7(c)(4) with reference to the subject dispute.
2. The ACHP's responses to such request will be taken into account by HUD in accordance with 36 CFR § 800.7(c) with reference only to the subject of the dispute; HUD's responsibility to carry out all actions under this PA that are not the subject of the dispute will remain unchanged.

G. Amendments and Termination

1. Any of the signatories (including the SHPOs) may seek to amend this PA by submitting its request in writing to the other signatories. Any and all amendment(s) will go into effect when agreed to in writing by the signatories. Amendments will be attached to the original PA as addendums and filed with the ACHP in accordance with

36 CFR § 800.6(b)(1)(iv).

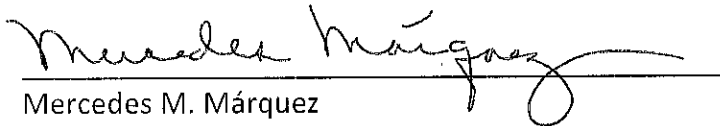
2. The HUD NSP2 Program Director is delegated authority from the Assistant Secretary for Community Planning and Development to sign any amendment or termination of this PA.
3. Termination of this PA may occur when one of the signatories notifies the other signatories in writing of the specific reasons for termination. The signatories will consult over the termination request and consider possible amendments to resolve the matter. If after 30 days the signatories cannot reach agreement on possible amendments, then the PA will be terminated and the undertakings will be reviewed in accordance with 36 CFR §§ 800.3-800.7. A SHPO seeking termination need not notify other SHPO signatories, and other SHPO signatories need not consult on such proposed termination. A termination by an individual SHPO will only terminate the applicability of the PA for that State.

H. Duration

1. Except as noted in XI.H.2. below, this PA will take effect as of the date of the last signatory below, and will apply in a State on the date as indicated on the SHPO addenda as they are signed and filed with the ACHP and HUD, and will remain in effect for the duration of the non-profit grantee's agreement with HUD, which per the Recovery Act expires 36 months from the time HUD makes the NSP2 funds available to the grantee for obligation.
2. In those cases where non-profit grantees undertake land banking activities, this PA will remain in effect for 10 years or until such time as the non-profit grantee completes Section 106 reviews for the redevelopment of the land banked property, whichever comes first. The NSP2 NOFA allows non-profit grantees to land bank property for no more than 10 years, at which point it must be redeveloped, otherwise NSP2 funds used for the acquisition must be recaptured by HUD and returned to the U.S. Treasury.
3. Upon execution of this PA by the signatories (HUD, ACHP, and NCSHPO), SHPOs will have 60 days to sign the addendum in order for the PA to apply in its State. If a SHPO fails to execute this PA within this timeframe, the SHPO will not be able to use this PA for complying with Section 106 and will be required to clarify the Section 106 compliance strategy for their State to HUD and the ACHP.

Execution and implementation of this Programmatic Agreement is evidence that HUD has afforded the Advisory Council on Historic Preservation an opportunity to comment on the NSP2 program and that HUD has taken into account the effects of the NSP2 program on historic properties.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT




Mercedes M. Márquez
Assistant Secretary, Community Planning and
Development

MAR 04 2011

Date

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ADVISORY COUNCIL ON HISTORIC PRESERVATION



John M. Fowler
Executive Director



Date

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NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS

Ruth Pierpont
Ruth Pierpont
President

March 16, 2011
Date

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AMONG
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS,
AND SELECT STATE HISTORIC PRESERVATION OFFICERS,
REGARDING IMPLEMENTATION OF NEIGHBORHOOD STABILIZATION PROGRAM/ROUND 2
ACTIVITIES CARRIED OUT BY NON-PROFIT GRANTEES AND SUBJECT TO
HUD'S ENVIRONMENTAL RULE, 24 CFR PART 50**

ADDENDUM:

By signing and dating below, the State Historic Preservation Officer agrees to abide by the terms of this Programmatic Agreement.

Dave Purnell, DPH, SHPO
State Historic Preservation Officer

4 MAY '11
Date

GEORGIA
State